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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/514,978      | 02/29/2000  | Mary Ellen Zurko     | C99020US            | 2130             |

22879 7590 09/16/2004

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| EXAMINER |
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DARROW, JUSTIN T

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| ART UNIT | PAPER NUMBER |
|----------|--------------|

2132

DATE MAILED: 09/16/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

|                        |                                      |                                     |  |
|------------------------|--------------------------------------|-------------------------------------|--|
| <b>Advisory Action</b> | <b>Application No.</b><br>09/514,978 | <b>Applicant(s)</b><br>ZURKO ET AL. |  |
|                        | <b>Examiner</b><br>Justin T. Darrow  | <b>Art Unit</b><br>2132             |  |

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 13 August 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

**PERIOD FOR REPLY [check either a) or b)]**

- a) ☐ The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.
- b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on \_\_\_\_\_. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);
  - (b) ☐ they raise the issue of new matter (see Note below);
  - (c) ☒ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
  - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet.

3. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.
4. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☐ The a) ☐ affidavit, b) ☐ exhibit, or c) ☐ request for reconsideration has been considered but does NOT place the application in condition for allowance because: \_\_\_\_\_.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☐ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

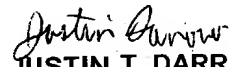
Claim(s) allowed: 38-41.

Claim(s) objected to: \_\_\_\_\_.

Claim(s) rejected: 21-29 and 32-37.

Claim(s) withdrawn from consideration: \_\_\_\_\_.

8. ☐ The drawing correction filed on \_\_\_\_\_ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_.
10. ☐ Other: \_\_\_\_\_

  
**JUSTIN T. DARROW**  
**PRIMARY EXAMINER**  
**TECHNOLOGY CENTER 2100**

Continuation of 2. NOTE: The proposed amendment raises new issues that require further consideration under 35 U.S.C. 112 and an additional search of the prior art. The examiner did not indicate, during the interview of 08/04/2004, to the applicant that the proposed amendment to claim 29 would be "favorably reviewed." The examiner pointed out that the subject matter of the proposed amendment was not anticipated by the cited portions of Johri et al., U.S. Patent No. 4,918,653 A. Because the proposed amendment contained the same limitations, but narrowed pending claim 29 by a specific sequence of method steps, other portions of this primary reference would have to be considered to find another embodiment that either anticipates expressly or inherently this subject matter as well as other prior art. The examiner expressly pointed out at the interview to the applicant that such an amendment would be considered under a request for continued examination under 37 C.F.R. 114 (see MPEP 706.07(h)), but not under an amendment under final rejection under 37 C.F.R. 116 (see MPEP 714.13 II.).